



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/812,148

03/29/2004

Gary W. James

METZ 2 00011

2979

27885 7590 01/26/2010  
FAY SHARPE LLP  
1228 Euclid Avenue, 5th Floor  
The Halle Building  
Cleveland, OH 44115

EXAMINER

ING, MATTHEW W

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

01/26/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/812,148	<b>Applicant(s)</b> JAMES ET AL.	
	<b>Examiner</b> MATTHEW W. ING	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,5,6,9 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,6,9 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2010 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

***Drawings***

1. The drawings filed on 1/4/10 have not been entered because Figures 6-7, as amended, constitute new matter. The examiner points out that although par. 25 does state that, "Sheet 120 has flanges 122, 124, 126, and 128 that...each include a plurality of openings 130", the particular configuration openings illustrated in Figures 6-7 is not necessarily implied by the text of par. 25. Alternate configurations are possible; e.g., openings located elsewhere upon said flanges. As such, the particular configuration shown in Figures 6-7 is considered to constitute new matter.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the circular openings on the first, second, third, & fourth flanges (claim 1) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

Art Unit: 3637

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 5-6, 9, & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winquist (1,164,439) in view of Vargo (4,553,725), Young (3,677,202), Evans (3,168,365), & Znamirovski (4,288,132).

5. Winquist teach(es) the structure substantially as claimed, including a second side wall (2 or 3 on one side of the cabinet) positioned opposite a first side wall (2 or 3 on the other side of the cabinet); a third wall (11) interconnecting the first and second side walls; a base wall (45) interconnecting the first, second and third walls; first & second support members (8) punched out of and extending from the first or second side walls such that a first or second opening is formed through the first or second side wall adjacent the first or second support member, the second support member is positioned at substantially the same height from the base wall as the first support member on the first wall, wherein the first & second support members (8) each include a straight first leg extending perpendicular to the first side wall and a straight second leg extending perpendicular from the first leg spaced from and substantially parallel to the first or second side wall, the second leg includes first and second linear portions; a removable shelf (52) including a planar surface and a first, second, third, & fourth flanges each depending from an end of the planar surface.

Art Unit: 3637

6. The only difference between Winquist and the invention as claimed is that Winquist fail(s) to teach a rounded portion extending between said first and second linear portions and a hemispherical dimple with rounded edges punched in a straight portion of the second leg, wherein said dimple extends toward said first opening; a third support member upon the third wall; a door hingedly connected to one of said first and second side walls and said base wall; wherein each of said flanges of said shelf comprises a pair of circular openings for receiving completely therethrough one of said dimples of one of said first, second and third support members.

7. Vargo, however, teaches the inclusion of a hemispherical dimple (94) with rounded edges punched in a straight portion of the second leg, wherein said dimple extends toward a first opening; as well as the inclusion, in opposed shelf flanges (84), of a pair of circular openings (88) for receiving completely therethrough one of said dimples. See Figs. 1-4. Additionally, Young teaches rounding a portion extending between first & second linear portions. See Fig. 4. Additionally, Evans teaches the inclusion of a third support member (on 18) upon a rear wall, said third support member being identical to first & second support members (on 46). Additionally, Znamirowski teaches the inclusion of a door (16-17) hingedly connected to one of said first and second side walls (13-14).

8. It would have been obvious to one of ordinary skill in the art to include hemispherical dimples & circular openings, as taught by Vargo, upon the support members & flanges, respectively, of Winquist, in order to provide a more secure connection therebetween; to provide the support members of Winquist as modified by Vargo with rounded upper edges, as taught by Young, in order to facilitate assembly of the cabinet; and to reduce the probability of physical

Art Unit: 3637

harm to a user via the elimination of sharp corners; to add a third support member to the third wall of Winqvist as modified by Vargo & Young, said third support member being identical to the first & second support members thereof, as taught by Evans, in order to provide additional support to the shelf thereof; and to include add doors, as taught by Znamirovski, to the cabinet of Winqvist, in order to permit concealment of the contents thereof, thereby providing the structure substantially as claimed.

9. Regarding claims 6, 9 and 14, the support members of Winqvist are considered lances, Winqvist teaches a cabinet fabricated from metal (page 1, line 10), and Winqvist further teaches a support wall (24) disposed between the first side wall and the second side wall in a first direction and between the removable shelf and the base wall in a second direction.

#### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1, 5-6, 9, & 14 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 3637

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Janet M. Wilkens/  
Primary Examiner, Art Unit 3637

MWI  
1/15/10